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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,928	02/20/2002	Howard Murad	2267-024	7746

20582 7590 06/03/2003

PENNIE & EDMONDS LLP  
1667 K STREET NW  
SUITE 1000  
WASHINGTON, DC 20006

EXAMINER
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KIM, VICKIE Y

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 06/03/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/077,928	MURAD, HOWARD
	Examiner Vickie Kim	Art Unit 1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-31 is/are pending in the application.

4a) Of the above claim(s) 1-22 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 23-31 is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)                            4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_.

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                            5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) Other: \_\_\_\_

## DETAILED ACTION

### ***Election acknowledged***

Applicants affirmation on the election without traverse of Group II, claims 23-31 is acknowledged. Due to the reasons of the record, the restriction requirement deems to be proper and made FINAL.

### ***Status of Application***

1. The Claims 1-31 are pending. The elected claims 23-31 are presented for the examination and non-elected claims 1-22 are withdrawn from the consideration.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 21-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Rothman et al(WO91/02538).

Claims are drawn to a method of treating a dermatological condition of a scalp, hair or nail condition(e.g.psoriasis, dandruff) using a composition comprising an effective amount of hydrogen peroxide, a moisturizing agent and one or more dermatological agents selected from an antimicrobial agent or an anti-inflammatory agent, optionally additional pharmaceutical composition such as antioxidant.

WO'538 teaches a method of treating skin, hair or nail conditions(see abstract and page 5) such as seborrheic dermatitis, psoriasis or dandruff using a composition comprising an effective amount of hydrogen peroxide(page 20), a moisturizing agent such as a hydrated protein or emollient(page 6 and page 23) and an antimicrobial or antifungal agent (page 25). Antioxidant that is required by the instant 29 is taught at page 21. The patented composition is utilized in various topical formulations such as cream, gel or lotions, see page 12. Especially, Example 1 (at page 29) contemplated a topical skin composition comprising all the required components(e.g. hydrogen peroxide, glycerine(moisturizing agent), germaben II ®(antimicrobial) and other dermatological agents.

All the critical elements are taught by the cited reference and thus, the claimed subject matter is not patentably distinct.

***Conclusion***

4. No claim is allowed.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vickie Kim whose telephone number is 703-305-1675. The examiner can normally be reached on Tuesday-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on 703-308-4725. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-3165 for regular communications and 703-746-3165 for After Final communications. Any inquiry of a general nature or

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relating to the status of this application or proceeding should be directed to the  
receptionist whose telephone number is 703-308-1235.



Vickie Kim,  
Patent examiner  
May 29, 2003  
Art unit 1614